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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,935	07/18/2003	Helmut Kreller	1954/0M900US0	2993
7278	7590	04/22/2005	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			GARCIA, ERNESTO	
			ART UNIT	PAPER NUMBER

3679

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/622,935

Applicant(s)

KRELLER, HELMUT

Examiner

Ernesto Garcia

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 6-15 and 19-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 16-18, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/18/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election***

This application contains claims directed to the following patentably distinct species of the claimed invention:

- I. Figure 1-5
- II. Figures 6-8

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention:

During a telephone conversation with Mr. Melvin C. Garner on April 8, 2005 a provisional election was made with oral traverse to prosecute the invention of Species I, claims 1-9, 11-14, 16-20, 22, and 23. Applicant in replying to this Office action must make affirmation of this election. Claims 10 and 15 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. Regarding claim 10, the claim is not readable on the elected species as no rotation prevention unit is provided. Regarding claim 15, this claim is not readable on the elected species as a further coupling unit is not shown on the elected species.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the connecting construction having or comprising "frameworks which have ... cross brackets connecting the frame struts" (claims 1 and 16) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Note, applicant has only shown, in Figures 1 and 3, a connecting construction having a framework (10) having a cross-bracket (14) and connecting frame struts (12).

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the slot arranged lying horizontally (claim 5) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and

appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: the reference to "the features of independent claim 1" on line 11 of page 3, "claims 2 to 15 which are dependent on claim 1" in line 13, and "the features of independent claim 22" in lines 17-18 is improper. Note: the specification is not a living document and the scope of "patent claims 1-15 and 22 is likely to change during the course of prosecution. Accordingly, the "features" being referred to must be specifically identified. Appropriate correction is required.

### ***Claim Objections***

Claims 6-9, 11-14, and 19-21 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claims have not been further

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treated on the merits. In regards to the language "or more of the preceding claims" in claim 6 in line 1, the language does not imply an alternative but rather inclusive claims such as claim 4 and claim 5 together. In regards to claims 7-11, 13 and 15, the language "1 to 3" in line 1 falls within the meaning of "1-3", which is not an alternative language. In regards to the language "or more" in claims 19-21, this is improper as the claims depend from claims 16 and 17 at the same time while claim 17 depends from claim 16. In regards to claims 12 and 14, these claims depended from untreated claims.

Claims 1, 2, 4, 5, 16, and 18 are objected to because of the following informalities:

regarding claim 1, "it" in line 18 and 21 needs to be defined;

regarding claim 2, "it" in line 5 needs to be defined, and "connection" in line 10 should be --fit--;

regarding claims 4 and 5, "of the further recess" in line 3 should be deleted;

regarding claim 16, "in particular for use in a connecting construction" in lines 2-3 should be deleted, and the first occurrence of "a" in line 23 should be --the--; and,

regarding claim 18, this claim should only depend from claim 17 as claim 16 does not provide antecedent basis to a projecting profile. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5, 16-18, 22 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-5, 16-18, 22 and 23 are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Regarding claim 1, the limitation "by means of which a coupling unit can be connected" in line 10 makes unclear whether the cross brackets 14 are connected to the frame struts by the coupling unit or trying to invoke 112(6) paragraph. Furthermore, is the coupling unit in line 11 claimed? The limitation "and/or" in line 23 makes unclear whether positive and non-positive fits occur at the same time. Moreover, what's considered a non-positive fit versus positive fit? Where exactly is the further recess provided on as stated in line 13?



Regarding claim 2, the limitation "and/or" in line 9 makes unclear whether positive and non-positive fits occur at the same time. Moreover, what's considered a non-positive fit versus a positive fit?

Regarding claim 3, "an/or" in line 9 makes unclear whether positive and non-positive fits occur at the same time.

Regarding claims 4 and 5, the claims depend from claim 1 and therefore are indefinite.

Regarding claim 16, the rejections of claim 1 above correspond to claim 16.

Regarding claims 17 and 18, "and/or" in line 8 makes unclear whether positive and non-positive fits occur at the same time.

Regarding claim 22, the limitation "by means of which a coupling unit can be connected" in line 11 makes unclear whether the cross brackets 14 are connected to the frame struts by the coupling unit or trying to invoke 112(6) paragraph. Furthermore, is the coupling unit in line 11 claimed? The limitation "and/or" in line 26 makes unclear whether positive and non-positive fits occur at the same time.

Regarding claim 23, the limitation "by means of which an additional coupling unit" in lines 7-8 makes unclear whether applicant is positively claiming the additional coupling unit in combination with the framework.

### ***Double Patenting***

Applicant is advised that should claims 1-3 be found allowable, claims 16-18 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). Note, the claims have different names in the preamble.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 16, 22, and 23, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Simpson, 5,577,353.

Regarding claim 1, Simpson discloses, in Figure 2 and 4, a connecting construction having frameworks (Fig. 4) which have frame struts **18** and cross brackets **22a** connecting the frame struts **18**. A sheet steel corner plate **34** is arranged in a region in which the cross brackets are connected to the frame struts **18** and which have a corner recess in a corner region of the region in which the cross bracket **22a** are connected to the frame struts **18**. A further recess is provided approximately level with the corner recess and offset inward. A further coupling unit, having a first coupling element (nut) and a second coupling element (bolt), is provided. Applicant is reminded that the second coupling element can be fastened in the further recess of the sheet steel corner plate with a positive fit. Furthermore, the coupling unit can be connected to the frame struts **18**.

Regarding claim 16, Simpson discloses, in Figure 2 and 4, a coupling unit comprising frameworks (Fig. 4) which have frame struts **18** and cross brackets **22a** connecting the frame struts **18**. A sheet steel corner plate **34** is arranged in a region in which the cross brackets are connected to the frame struts **18** and which have a corner recess in a corner region of the region in which the cross bracket **22a** are connected to the frame struts **18**. A further recess is provided approximately level with the corner recess and offset inward. A further coupling unit, having a first coupling element (nut) and a second coupling element (bolt), is provided. Applicant is reminded that the second coupling element can be fastened in the further recess of the sheet steel corner

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plate with a positive fit. Furthermore, the coupling unit can be connected to the frame struts **18**.

Regarding claim 22, Simpson discloses, in Figure 2 and 4, a frame system comprising frameworks (Fig. 4) which have frame struts **18** and cross brackets **22a** connecting the frame struts **18**. A sheet steel corner plate **34** is arranged in a region in which the cross brackets are connected to the frame struts **18** and which have a corner recess in a corner region of the region in which the cross bracket **22a** are connected to the frame struts **18**. A further recess is provided in the sheet steel corner plate approximately level with the corner recess and offset inward. A further coupling unit, having a first coupling element (nut) and a second coupling element (bolt), is provided. Applicant is reminded that the second coupling element can be fastened in the further recess of the sheet steel corner plate with a positive fit. Furthermore, the coupling unit can be connected to the frame struts **18**.

Regarding claim 23, an additional recess is provided in the sheet steel corner plate below the corner recess of the sheet steel corner plate. Applicant is reminded that there are four recesses and an additional coupling unit can be connected to the frame struts **18**.

***Allowable Subject Matter***

Claims 2-5, 17 and 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claims 2 and 17, the prior art of record does not disclose or suggest a second coupling element having a spacer profile and a projection profile arranged on a free end side of the spacer profile;

regarding claims 3-5, these claims depend from claim 2; and,

regarding claim 18, this claim would be allowable if the claim only depends from claim 17.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 703-272-7083. The examiner can normally be reached from 9:30-5:30. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*E.G.*

E.G.

April 12, 2005

*Daniel P Stodola*

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